

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION.
CRIMINAL APPLICATION No.2158 of 2007**

Shrikant Sitlaprasad Mishra
& Anr.

Applicants.

Vs.

The State of Maharashtra
& Ors.

..Respondents.

Mr M. P. Mishra for the Applicants.
Ms. M. M. Deshmukh, APP for the State.

CORAM: V.C. DAGA,J.

DATED: 19TH JULY, 2007.

P.C.:-

1. Heard learned counsel for the applicants
and learned APP for the State.

2. By earlier order of this Court, dated
27.2.2007, the bail application moved by the
applicants came to be rejected. However, the
trial was expedited and learned Additional
Sessions Judge was directed to dispose of the
same, as early as possible, preferably within
four months. The said trial could not be
disposed of during the stipulated time frame.
As such, the present applicants have moved
this Court for bail, contending that learned
Additional Sessions Judge could not conclude
trial within four months and, therefore, the
applicants are entitled for bail.

3. On the last date of hearing when this matter was argued by learned counsel and when the submissions were advanced, he did not point out that a revision application was filed by him in this Court and that the stay of the trial was obtained by applicants sometime in the month of April, 2007. Consequently, this Court was pleased to direct the Registrar General to seek explanation from learned Additional Sessions Judge, Sewree, as to why the trial could not be concluded within the stipulated time frame fixed by this Court.

4. Today, when the matter came up before me, learned Registrar General has placed a note indicating that explanation has been sought but the same is yet to be received.

5. I wanted to adjourn this matter to seek the report from the concerned Judge, with respect to the delay caused in disposal of the trial. However, adjournment is objected by learned counsel for the applicants and he insisted for hearing of this application without there being any report from the concerned Judge. In view of the objection

taken, the matter is taken up for hearing on this application.

6. In para 9 of the application, the applicants have stated as under:

9."The applicants state that thereafter the learned Sessions Judge was pleased to frame additional charge against the applicants on 23.3.2007 and particularly under section 364(A) of I.P.C., which is alone triable by Court of Session and thereafter the applicants have filed Criminal Revision Application No. 199 of 2007 before this Hon'ble Court by way of challenging framing of additional charge on the ground that the statement of the kidnapped person i.e. Jayantilal Dave does not disclose commission of alleged offence punishable under Section 364(A) of I.P.C. and the said revision application was heard by her Ladyship Justice Smt.V.K. Tahilramani and the same was disposed of with certain observations on 26.6.2007. The applicants crave leave to refer and rely upon the copy of revision application and order dated 26.6.2007 as and when produced. Hereto annexed and marked as Exhibit C is the copy of statement of the kidnapped person i.e. Jayantilal Dhirajlal Dave."

7. Learned counsel for the applicants in his oral submission submits that in the month of April, 2007 Criminal Revision Application No. 199 of 2007 was filed and it was disposed of in the month of June, 2007. During this period of three months the trial was stayed by

virtue of the order of this Court. If that be so, it was not possible for the learned Additional Sessions Judge to dispose of the trial within the time frame fixed by this Court. In this view of the matter, the applicants were themselves responsible for delaying the trial. In my opinion, that ground is not available to them to seek bail. Under these circumstances, for the reasons recorded in the order dated 27.2.2007 and the applicants themselves being cause in delay for the trial, the application is rejected.

(V.C. DAGA,J.)